

110TH CONGRESS
2D SESSION

H. R. 6507

To amend the Internal Revenue Code of 1986 to modify the partial exclusion for gain from certain small business stocks.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2008

Mr. CHILDERS introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to modify the partial exclusion for gain from certain small business stocks.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Invest in Small Busi-
5 ness Act of 2008”.

6 **SEC. 2. INCREASED EXCLUSION AND OTHER MODIFICA-**
7 **TIONS APPLICABLE TO QUALIFIED SMALL**
8 **BUSINESS STOCK.**

9 (a) INCREASED EXCLUSION.—

1 (1) IN GENERAL.—Subsection (a) of section
2 1202 of the Internal Revenue Code of 1986 (relating
3 to exclusion) is amended to read as follows:

4 “(a) EXCLUSION.—Gross income shall not include
5 any gain from the sale or exchange of qualified small busi-
6 ness stock held for more than 3 years.”.

7 (2) RULE RELATING TO STOCK HELD AMONG
8 MEMBERS OF CONTROLLED GROUP.—Subsection (c)
9 of section 1202 of such Code is amended by adding
10 at the end the following new paragraph:

11 “(4) STOCK HELD AMONG MEMBERS OF 25-PER-
12 CENT CONTROLLED GROUP NOT ELIGIBLE.—

13 “(A) IN GENERAL.—Stock of a member of
14 a 25-percent controlled group shall not be treat-
15 ed as qualified small business stock while held
16 by another member of such group.

17 “(B) 25-PERCENT CONTROLLED GROUP.—
18 For purposes of subparagraph (A), the term
19 ‘25-percent controlled group’ means any con-
20 trolled group of corporations as defined in sec-
21 tion 1563(a)(1), except that—

22 “(i) ‘more than 25 percent’ shall be
23 substituted for ‘at least 80 percent’ each
24 place it appears in section 1563(a)(1), and

1 “(ii) section 1563(a)(4) shall not
2 apply.”.

3 (3) CONFORMING AMENDMENTS.—

4 (A) Subsections (b)(2), (g)(2)(A), and
5 (j)(1)(A) of section 1202 of such Code are each
6 amended by striking “5 years” and inserting “3
7 years”.

8 (B) Section 1223(13) of such Code is
9 amended by striking “1202(a)(2)”.

10 (C) The heading for section 1202 of such
11 Code is amended by striking “**PARTIAL**”.

12 (D) The item relating to section 1202 in
13 the table of sections for part I of subchapter P
14 of chapter 1 of such Code is amended to read
15 as follows:

“Sec. 1202. Exclusion for gain from certain small business stock.”.

16 (b) REPEAL OF MINIMUM TAX PREFERENCE.—

17 (1) IN GENERAL.—Subsection (a) of section 57
18 of the Internal Revenue Code of 1986 (relating to
19 items of tax preference) is amended by striking
20 paragraph (7).

21 (2) TECHNICAL AMENDMENT.—Subclause (II)
22 of section 53(d)(1)(B)(ii) of such Code is amended
23 by striking “, (5), and (7)” and inserting “and (5)”.

24 (c) REPEAL OF 28 PERCENT CAPITAL GAINS RATE
25 ON QUALIFIED SMALL BUSINESS STOCK.—

(1) IN GENERAL.—Subparagraph (A) of section 1(h)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

“(A) collectibles gain, over”.

(2) CONFORMING AMENDMENTS.—

(A) Section 1(h) of such Code is amended by striking paragraph (7).

(B)(i) Section 1(h) of such Code is amended by redesignating paragraphs (8), (9), (10), (11), (12), and (13) as paragraphs (7), (8), (9), (10), (11), and (12), respectively.

(ii) Sections 163(d)(4)(B), 854(b)(5), 857(c)(2)(D) of such Code are each amended by striking “section 1(h)(11)(B)” and inserting “section 1(h)(10)(B)”.

(iii) The following sections of such Code are each amended by striking “section 1(h)(11)” and inserting “section 1(h)(10)”:

(I) Section 301(f)(4).

(II) Section 306(a)(1)(D).

(III) Section 584(c).

(IV) Section 702(a)(5).

(V) Section 854(a).

(VI) Section 854(b)(2).

1 (iv) The heading of section 857(c)(2) is
2 amended by striking “1(h)(11)” and inserting
3 “1(h)(10)”.

4 (d) INCREASE AGGREGATE ASSET LIMITATION FOR
5 QUALIFIED SMALL BUSINESSES.—

6 (1) IN GENERAL.—Paragraph (1) of section
7 1202(d) of the Internal Revenue Code of 1986 (re-
8 lating to qualified small business) is amended by
9 striking “\$50,000,000” each place it appears and in-
10 serting “\$100,000,000”.

11 (2) INFLATION ADJUSTMENT.—Section 1202(d)
12 of such Code is amended by adding at the end the
13 following new paragraph:

14 “(4) INFLATION ADJUSTMENT.—

15 “(A) IN GENERAL.—In the case of any
16 taxable year beginning in a calendar year after
17 2009, each of the \$100,000,000 dollar amounts
18 in paragraph (1) shall be increased by an
19 amount equal to—

20 “(i) such dollar amount, multiplied by

21 “(ii) the cost-of-living adjustment de-
22 termined under section 1(f)(3) for the cal-
23 endar year in which the taxable year be-
24 gins, determined by substituting ‘calendar

1 year 2008’ for ‘calendar year 1992’ in sub-
2 paragraph (B) thereof.

3 “(B) ROUNDING.—If any amount as ad-
4 justed under subparagraph (A) is not a multiple
5 of \$1,000, such amount shall be rounded to the
6 next lowest multiple of \$100.”.

7 (e) EFFECTIVE DATE.—

8 (1) IN GENERAL.—The amendments made by
9 this section apply to stock issued after December 31,
10 2008.

11 (2) SPECIAL RULE FOR STOCK ISSUED BEFORE
12 JANUARY 1, 2009.—The amendments made by sub-
13 sections (a), (b), and (c) shall apply to sales or ex-
14 changes—

15 (A) made after December 31, 2008,

16 (B) of stock issued on or before such date,

17 and

18 (C) by a taxpayer other than a corpora-

19 tion.

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